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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,798	07/25/2003	Victor Hrid Pan	Pan 2 (LCNT/124991)	2658
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WALL & TONG, LLP/ ALCATEL-LUCENT USA INC. 595 SHREWSBURY AVENUE SHREWSBURY, NJ 07702			EXAMINER VU, MICHAEL T	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 02/11/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/627,798

Applicant(s)

PAN, VICTOR HRID

Examiner

MICHAEL T. VU

Art Unit

2617

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-9 and 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-9 and 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/30/2008 has been entered.

Claim Rejections - 35 USC § 101

2. Claims 1-3, 5-9, 11-12 are rejected under 35 U.S.C. 101 because: in view of the In re Bilski decision appearing in MPEP 2106:

Claim 1 is rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent and recent Federal Circuit decision indicate that a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or

positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Note: the Examiner suggests amending at least one step in claim to positively recite the statutory item or device (e.g. base station, controller, mobile, device, etc.) that performs the step in order to 'tie' the process to a particular statutory category.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5-9, 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glazko (US 2002/0160719) in view of Neufeld (US 2002/0067762).

Regarding claims 1 and 13, Glazko teaches a method for assigning pseudorandom number offsets of a synchronized timing system [0033] to sectors of communication cells in a communications network (Figure #1, CDMA System [0033]) comprising the steps of: determining a minimum delay offset between pseudorandom number offsets that will avoid signal collision when the pseudorandom number offsets are assigned to adjacent sectors of the same cell [0033-0035]; applying delay offsets of no less than the minimum delay offset and no more than two greater than the minimum

delay offset between pseudorandom number offsets assigned to adjacent sectors of the same cell [0033-0037, 0043-0048]; and

But Fortuna does not clearly teach applying varied delay offsets between pseudorandom number offsets assigned to sectors of different cells.

However, Neufeld teaches applying varied delay offsets between pseudorandom number offsets assigned to sectors of different cells [0005-0010, 0055-0059].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Glazko, with Neufeld's teaching, in order to assigned a time offset that is intended to identify the serving pilot signal such as the pseudorandom number (PN) phase adjustment in fine increments for avoiding collision or interference results in the wireless communication systems.

Regarding claims 2 and 14, Glazko and Neufeld teach the method of claim 1 and further comprising the steps of: determining that the minimum delay offset is two (2) [0033-0037, 0040-0047]; and applying a delay offset of two (2) between pseudorandom number offsets assigned to sectors of the same cell [0011-0015], and [0033-0037, 0040-0047, 0067-0074] of Glazko.

Regarding claims 3 and 15, Glazko and Neufeld teach the method of claim 1 and further comprising the steps of: determining that the minimum delay offset is two (2) [0033-0037, 0040-0047]; and applying a delay offset of at least three (3) between pseudorandom number offsets assigned to adjacent sectors of the same cell [0040-0047, 0067-0074] of Glazko.

Regarding claims 5 and 17, The combination of Glazko and Neufeld teach the method of claim 4 and further comprising the steps of: determining that the minimum delay offset is two [0033-0337, 0040-0047]; and applying a delay offset of at least three (3) between pseudorandom number offsets assigned to sectors of the same cell [0033-0037, 0040-0047] of Glazko.

Regarding claims 6 and 18, Glazko and Neufeld teach the method of claim 1 and further comprising the step of: applying a varied delay offset of more than the minimum delay offset between pseudorandom number offsets assigned to sectors of different cells when the different cells are within five cells of each other [0033-0037, 0040-0047, 0067-0074] of Glazko.

Regarding claims 7 and 19, The combination of Glazko and Neufeld teach the method of claim 6 and further comprising the step of: applying a varied delay offset of at least between pseudorandom number offsets assigned to sectors of different cells when the different cells are within five cells of each other [0040-0047, 0067-0074] of Glazko.

Regarding claim 8, The combination of Glazko and Neufeld teach the method of claim 6 and further comprising the steps of: determining that the minimum delay offset is two (2) [0040-0047]; and applying a delay offset of two (2) between pseudorandom number offsets assigned to adjacent sectors of the same cell [0033-0037, 0040-0047, 0067-0074] of Glazko.

Regarding claim 9, The combination of Glazko and Neufeld teach the method of claim 6 and further comprising the steps of: determining that the minimum delay offset is two (2) [0040-0047, 0067-00747]; and applying a delay offset of three (3) between

pseudorandom number offsets assigned to adjacent sectors of the same cell [0040-0047] of Glazko.

Regarding claim 11, The combination of Glazko and Neufeld teach the method of claim 6 and further comprising the steps of: determining that the minimum delay offset is two (2) [0033-0037, 0040-0047]; and applying a delay offset of three (3) between pseudorandom number offsets assigned to adjacent sectors of the same cell [0040-0047, 0067-0074] of Glazko.

Regarding claims 12 and 20, Glazko and Neufeld teach the method of claim 1, and further comprising the step of assigning the pseudorandom number offsets to the sectors in a spatial reuse pattern [0006-0009, 0040-0047] of Glazko.

Regarding claim 16, Glazko and Neufeld teach the network of claim 13 and further comprising: the pseudorandom number offsets that are assigned to adjacent sectors of the same cell being applied with delay offsets therebetween of more than the minimum delay offset [0033-0037, 0040-0047] of Glazko.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Vu whose telephone number is (571)272-8131. The examiner can normally be reached on 8:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Charles N. Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michael Vu/
Examiner
AU-2617

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617